

In the prospectus issued November 1, 2010, the National Park Service (Service) advised it would respond to questions about the prospectus if submitted in writing and received by January 7, 2011. The Service later extended that date to February 11, 2011.

**1.** *Several questions were asked that referenced page 12 of the Contract which states, “a) Maintenance Obligation - Subject to the limitations set forth in Section 8(a)(1) of this Contract, the Concessioner shall be solely responsible for maintenance, repairs, housekeeping, and grounds keeping for all Concession Facilities to the satisfaction of the Director.*

**Question:** Please define “maintenance” and its difference from a capital improvement.

**Response:** The definition of maintenance is the day-to-day activities as well as the planned work required to preserve Concession Facilities in such a condition that they may be used for their designated purpose over an intended service life. Facility Maintenance includes Routine, Operational Maintenance, Preventive Maintenance, Cyclic Maintenance, and Repair. Facility Maintenance does not include Capital Improvements.

Preventive maintenance is planned, scheduled periodic maintenance activities (within one year) on selected equipment. It might typically include inspection, lubrication, and minor adjustment.

Cyclic Maintenance is planned work activities that reoccur on a periodic cycle of greater than one year and less seven years to sustain the useful life of an Asset. Typical projects include, but are not limited to painting, pump and motor replacement, cleaning, repair and replacement of luminaries, engine overhaul, and refinishing hardwood floors.

Repair is work to restore damaged or worn-out property to a normal operating condition. Repairs are curative, while Cyclic and Preventive Maintenance are preventative.

Prospectus CC-HOSP002-11 is a Category II contract which does not allow for capital improvements. Capital improvement is defined in 36 CFR §51.51 as a structure, fixture, or non-removable equipment provided by a concessioner pursuant to the terms of a concession contract and located on lands of the United States within a park area. A capital improvement does not include any interest in land. Additionally, a capital improvement does not include any interest in personal property of any kind including, but not limited to, vehicles, boats, barges, trailers, or other objects, regardless of size, unless an item of personal property becomes a fixture as defined in this part. Concession contracts may further describe, consistent with the limitations of this part and the 1998 Act, the nature and type of specific capital improvements in which a concessioner may obtain a leasehold surrender interest.

**Question:** Are there monetary limits as to what defines maintenance and a capital improvement?

**Response:** There are no monetary limits that define maintenance or capital improvement for this contract.

**Question:** Where can the standards for determining the definitions and monetary limits be found?

**Response:** Please see the response above that references 36 CFR §51.51.

**2.** *Two questions were asked that referenced page A-9 of Exhibit A of the Operating Plan which states, "The Concessioner shall make reasonable accommodation for visitors with disabilities and comply with the requirements for the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990."*

**Question:** Please define what the NPS expectations of reasonable accommodations are.

**Response:** The expectation of the NPS is that all Concessioners be in compliance with the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Both Acts have extensive websites that address reasonable accommodations and these websites also address accommodations within historic structures.

**Question:** Will the Concessioner be responsible for modification to existing fixtures and or structure to make these accommodations.

**Response:** If the modification is a capital improvement and/or a fixture, then that modification would be the responsibility of the Service.

**3.** *Two questions were asked and referenced page B-1 of Exhibit B which states, "(a)Employment (2) The Concessioner will, in all solicitations or advertisements for employees placed by on behalf of the Concessioner, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or disabling condition."*

The question stated, "The Buckstaff Bath House has always been a facility that provides equal access to Male and Female customers but on separate floors. These depts. provide the exact same services but with like gender employees i.e. Men for Men and Ladies for Ladies."

**Question:** Will the Concessioner be required as stipulated under (a) Employment to consider any individual regardless of sex for a position in a department of opposite gender?

**Response:** No, the Concessioner will not be required to consider any individual regardless of sex for a position in a department of opposite gender.

**Question:** Do all Help Wanted Ads have to contain the exact wording as listed in Section 1 (a)(2)?

**Response:** No, help want ads do not have to contain the wording listed in Section 1(a)(2), but all Concessioners must follow Exhibit B of the contract which addresses nondiscrimination.

4. *Several questions were asked and referenced Appendix 8 which addresses deferred maintenance that is found in the most recent Condition Assessment which is the responsibility of the Concessioner. One of the items identified is to repair cracks in tile floor with a cost of \$18,845.*

**Questions:**

- Where can a detailed description be obtained outlining and locating the cracks in this section that are to be repaired?
- If these cracks are due to foundation settlement is the concessioner responsible for foundation repairs also?
- Where can a description be obtained as to the standards the NPS requires the concessioner to follow in the repair of these cracks?
- Will they be pointed out during the site visit?
- Does the replacement of grout include grout joints between marble panels?

**Responses:** The most recent Condition Assessment identifies the cracks as being in the doorway between North women's cooling area and the lavatory, in men's dressing room, and women's bath area. The Condition Assessment's direction was to rout out as little as possible of the tiles, replace the tiles and regROUT.

As identified under Section 7(I) of the Maintenance Plan, "NPS Director's Orders to be followed in repair and building projects are: DO-10, Drafting Guidelines; DO-12, NEPA Compliance; DO-28, Cultural Resource Management."

5. *A question was asked and referenced page E-2 of Exhibit E (the Maintenance Plan) that states, "Concessioner Responsibilities: A) Repair and maintain, all parts of the load-bearing structure including roofing.*

**Question:** Does this mean the concessioner is responsible for foundation or stabilization work to the foundation if necessary?

**Response:** As outlined previously, if anything is a capital improvement it is the responsibility of the Service. Each project will be evaluated as needed to determine if it is a Service or Concessioner responsibility.

6. *A question was asked and referenced page E-2 of Exhibit E (the Maintenance Plan) which states, "(B) Repair and maintain all heating and air conditioning systems and equipment to industry and applicable OSHA standards."*

**Question:** Does this mean the concessioner is responsible for replacement of major components or units due to age or the inability to repair such units?

**Response:** As outlined previously, if anything is a capital improvement it is the responsibility of the Service. Each project will be evaluated as needed to determine if it is a Service or Concessioner responsibility.

7. *A question was asked and referenced page E-2 of Exhibit E (the Maintenance Plan) that addresses the repair and maintenance of the elevator.*

**Question:** Is the concessioner is responsible for all up grades as required by the NPS or other government agencies?

**Response:** As outlined previously, if anything is a capital improvement it is the responsibility of the Service. Each project will be evaluated as needed to determine if it is a Service or Concessioner responsibility.

8. *Several questions were asked about page E-3 of Exhibit E (the Maintenance Plan) that states, "The Service will supply thermal water to the Concessioner."*

**Question:** What guarantees does the Service give to assure an uninterrupted thermal mineral water supply?

**Response:** Barring any emergencies or unforeseen circumstances outside of the Service's control, all efforts will be made to assure thermal water is available to the concessioner as required to provide services to visitors.

**Question:** Do concessioners within the NPS have preference over those users outside of the Park in the event of a water shortage?

**Response:**

Yes. Priority for access to the thermal water is given to bathhouse operators located within the boundaries the Park, followed by operators outside the Park in order of when they were connected to the system. The Buckstaff Bathhouse has been in continuous operation since 1912, therefore it has priority, followed by Quapaw Baths & Spa also located on Bathhouse Row.

**Question:** With the Buckstaff being solely heated by thermal water does it have any preference over other users outside or inside the Park to receive this water to prevent its shut down in the cold weather months?

**Response:** Yes. Priority for access to the thermal water is given to bathhouse operators located within the boundaries of the Park, followed by operators outside the park in order of when they were connected to the system. The Buckstaff Bathhouse has been in continuous operation since 1912, therefore it has priority, followed by Quapaw Baths & Spa also located on Bathhouse Row.

9. *A question was asked about Page E-4 of Exhibit E of the Maintenance Plan states, "The Service will provide water for landscape watering."*

**Question:** Does the Service intend to do all lawn watering and will it install a sprinkler system on the NPS city water system or on the Concessioners systems?

**Response:** The Service does not intend to install a sprinkler system. Lawn watering is the responsibility of the Concessioner

10. *A question was asked and referenced Section 7(A) of Exhibit E (the Maintenance Plan) that states, "The Concessioner is responsible for complying with the Uniform Federal Accessibility Standards (UFAS) in the assigned area. All designs must meet NPS, ADA, and UFAS standards. Ramps must not interfere with street-sweeping by extending into the roadway or parking area."*

**Question:** Is the Concessioner responsible for all improvements to meet NPS, ADA, and UFAS standards?

**Response:** As a Category II contract, if anything is a capital improvement it is the responsibility of the Service. Each project will be evaluated as needed to determine if it is a Service or Concessioner responsibility.

**11.** *A question was asked about Section 2 (page 2) of the draft Contract which provides a definition of Best Management Practices.*

**Question:** Where can a copy of the “Best Management Practices” be found?

**Response:** A definition of Best Management Practices (BMP) can be found in Section 2 of the draft contract. As the definition states, BMPs apply the most current and advanced means and technologies, and changes from time to time as technology evolves. Because the BMP is comprised of evolving concepts, a BMP copy does not exist.

**12.** *A question was asked about Section 10(d) on page 14 of the draft contract which addresses the adjustment of franchise fees.*

**Question:** Will arbitration be governed by the rules as established by the “American Arbitration Association”?

**Response:** Yes, arbitration is governed by the rules as established by the American Arbitration Association.

**13.** *A question was asked that referenced Section 11(d) on pages 15-16 of the draft contract that addresses commercial public liability insurance and states, “(4) In the event of loss, the Concessioner shall use all proceeds of such insurance to repair, rebuild, restore or replace Concession Facilities and/or personal property utilized in the Concessioner's operations under this Contract, as directed by the Director. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of Section 12 shall apply to such insurance proceeds.*

*The Concessioner shall not be relieved of its obligations under subsection (d)(1) because insurance proceeds are not sufficient to repair or replace damaged or destroyed property.”*

**Question:** In the event of severe property damage that requires the total Facility to be replaced will the Concessioner be Liable for replacement cost that exceeds the required insurance minimums as outlined in Exhibit F?

**Response:** Exhibit C of the draft contract provides the dollar amount that the Concessioner is responsible for in the event of severe property damage.

**14.** *A question was asked about Section 12 of the draft contract which addresses bonds and liens.*

**Question:** What is the Directors acceptable amount of a “Performance Bond” that is required to be provided under this contract?

**Response:** The Service does not anticipate that a bond will be required during this contract term.

15. *A question was asked about Section 15(b) of the draft contract that addresses termination by the Service.*

**Question:** Numerous provisions are cited for the termination of the Contract by the Director, what provisions are available for the termination by the Concessioner in the event that continuing its operation in the National Park is economically or physically unfeasible?

**Response:** The draft contract is for a ten year contract term and it is assumed that all interested parties would be seeking a contract for ten years. If extraordinary and unanticipated events occur during the contract term, Section 10(d) of the contract addresses the adjustment of franchise fees for such events. Please refer to Section 10(d) of the draft contract for details.

16. *Several questions were asked about the “Other Property” section in the Business Opportunity section of the Prospectus.*

**Question:** What is the definition of “Personal Property” as owned by the current Concessioner? Is it restricted to items listed in Appendix 6?

**Response:** Personal property is defined as manufactured items of independent form and utility including equipment and objects solely for use by the Concessioner to conduct business. Personal property includes, without limitation, removable equipment, furniture and goods, necessary for Concessioner operations under the Contract. Please refer to Section 8 (e) that discusses personal property, which states that the Concessioner shall provide all personal property, including without limitation removable equipment, furniture and goods, necessary for its operations under the contract. The items listed in Appendix 6 were provided by the existing Concessioner, but it may not be a complete list.

**Question:** Is the current Concessioner required to sell the companies personal property to a new concessioner?

**Response:** Please refer to Appendix 3 of the prospectus. Appendix 3 is a copy of the existing contract and Section 13 (b) of the existing contract addresses requirement of the successor to purchase the personal property from the Concessioner.

**Question:** Does the Service guarantee the purchase of their property at the estimated value?

**Response:** Section 4.2 of the Business Opportunity states that “Offerors should not rely on NPS estimates in preparing and submitting proposals in response to this Prospectus. Offerors must make their own determination as to the scope of Other Property that is to be purchased from the existing Concessioner and the estimates of compensation for that property.”

17. **Question:** Are the financials available for the last three fiscal years?

**Response:** The three most recent years of total gross revenue at the time of prospectus development can be found on page 9 of the Business Opportunity section of the prospectus.

18. **Question:** What equipment does not stay?

**Response:** Please refer to page 4.2 of the Business Opportunity of the prospectus the other property that the existing Concessioner is required sell and transfer to the new Concessioner.

**19.     Question:** What does NPS cover maintenance/buildings etc.?

**Response:** Please refer to question 1 above. In addition, any capital improvement would be the responsibility of the Service.

**20.     Question:** Equipment functionality?

**Response:** This question needs to be expounded in order for a response to be provided.